UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

NEHEMIAH ROBINSON, Plaintiff, vs. T CATLETT, Sargeant, *et al.*, Defendants.	CASE NO. 08-CV-0161-H (BLM) ORDER DENYING AS MOOT MOTION TO DISMISS COMPLAINT

On June 10, 2008, attorneys for Defendants submitted a motion to dismiss the complaint. (Doc. No. 25.) On July 2, 2008, Plaintiff filed a first amended complaint ("FAC"). (Doc. No. 26.) The Court accepts the FAC and concludes that the motion to dismiss the original complaint is therefore moot. Accordingly, the Court denies the pending motion without prejudice to Defendants' ability to raise the same or similar arguments against the FAC.

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The Court continues to refer any motion to dismiss to the magistrate judge.[1] Defendants should contact the magistrate judge's chambers to obtain a hearing date on any motion to dismiss the FAC.

IT IS SO ORDERED.

DATED: July 7, 2008

MARILYN L. HUFF, District Judge
UNITED STATES DISTRICT COURT

COPIES TO:
All parties of record.

[1]Plaintiff filed a consent to magistrate judge jurisdiction. (See Doc. No. 7.) Defendants have not done so, and they are free to withhold such consent. Where the district judge retains jurisdiction, the Local Rules still refer prisoner section 1983 cases to the magistrate judge for a report and recommendation. See Local Civil Rule 72.3.